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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,456	01/25/2005	Arnold Wagner	016749-000300US	8059
20350 7590 06/07/2007 TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			EXAMINER OLSZEWSKI, JOHN	
			ART UNIT 3618	PAPER NUMBER
			MAIL DATE 06/07/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/523,456

Applicant(s)

WAGNER, ARNOLD

Examiner

John R. Olszewski

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 January 2005.
- 2a) ☐ This action is **FINAL**.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 31 January 2005.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. **Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.** Specifically, the use of "and/or" makes the claim indefinite, due to this examiner has taken the broadest reasonable interpretation of the claim in order to advance prosecution.
2. **Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.** Specifically, the use of "e.g." makes the claim indefinite and indicates that the entirety of the claim following the use of "e.g." is not required structure or function, therefore everything following "e.g." in claim 4 has not been examined by the examiner.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3618

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

**3. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pham (US 6,170,847) in view of MacLeod (US 5,794,966).**

With regards to claim 1, Pham discloses:

- A single-track vehicle (Figure 1a, Item 1)
- A supporting device (Figure 1a, Item 45, 46, and 21)
- An adjusting device (Figure 3, Items 46 and 47)
  - Which is intended for selective lowering and raising of support elements (Column 4, Lines 55-57)
  - Which can be actuated by way of a control device (Figure 3, Item 52)
    - Which can be influenced as a function of control signals from a speedometer which senses the speed of the vehicle (Figure 3, Item 55)
- The adjusting device comprises at least one supporting and actuating element (Figure 3, Items 47 and 53a)
  - Which can be influenced in combination by way of the control device or by signals from the driver (Columns 9-10, Lines 41-27 [respectively])

Art Unit: 3618

- It is intended for extending and retracting the supporting device (Column 4, Lines 55-57)
- It can be tensioned against the supporting device, as well as means for selective locking, unlocking, tensioning and extending of the supporting and actuating element (Column 8, Lines 33-64)

With regards to claim 1, Pham lacks, but MacLeod teaches:

- The control device can be influenced as a function of control signals from a transverse acceleration meter (Columns 11-12, Lines 58-9 [respectively])

Therefore it would have been obvious to one of ordinary skill in the art to take the teachings of MacLeod and incorporate them into the invention of Pham in order to provide an alternative way of detecting the necessity of the outrigger wheels.

With regards to claim 2, Pham discloses:

- Two supporting struts (Figure 1a, Items 45)
  - One for each supporting roller (Figure 1a, Items 45 and 66)
    - Which can be pivoted in and out (Figure 2a)

With regards to claim 2, Pham lacks, but MacLeod teaches:

- Characterized in that the supporting struts are coupled to one another so as to be adjustable synchronously (Figure 3)
  - Figure 3 discloses that the entire hydraulic system is interconnected and therefore is capable of acting synchronously

Art Unit: 3618

- The supporting (Item 28) and actuating element (Item 40) is coupled to one of these supporting struts (Figure 3)

Therefore it would have been obvious to one of ordinary skill in the art to take the teachings of Macleod and incorporate them into the invention of Pham in order to provide a system that is interconnected and can adjust synchronously so as to maintain balance between the two supporting struts.

With regards to claim 3, Pham discloses:

- Two supporting struts (Figure 1a, Items 45)
- One for each supporting roller (Figure 1a, Items 45 and 66)
  - Which can be pivoted in and out (Figure 2b.)
  - Characterized in that each of these supporting struts is coupled to its own supporting and actuating element (Figure 3)
    - Discloses one side of the vehicles system

With regards to claim 4, Pham discloses:

- Characterized in that the supporting and actuating element comprises a hydraulic system which is closed towards the exterior (Column 9, Lines 1-40)
  - The hydraulic system is fully enclosed and is not exposed to the exterior environment

With regards to claim 5, Pham discloses:

- Characterized in that electric, pneumatic or mechanical means or a combination of two or all three means are provided for controlling and adjusting the supporting

Art Unit: 3618

and actuating element into the RIGID, LOOSE, TENSIONED and EXTENDING states (Column 8, Lines 33-64)

- Item 53a, previously indicated as the actuating member is a solenoid which receives an electric signal is received which causes mechanical opening or closing of the valve based off of input from the ECM which leads to the adjustment of the supporting element into a rigid, loose, tensioned, and extending state

With regards to claim 6, Pham discloses:

- Single-track vehicle with a stabilizing device as claimed in claim 1
  - Above claim 1 was rejected under 35 U.S.C. 103(a) as being unpatentable over Pham (US 6,170,847) in view of MacLeod (US 5,794,966), the base reference used, Pham, was a single-track vehicle, therefore claim 6 is rejected.

### **Conclusion**

**4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:**

- Burden et al. (US 4,145,959), Willman (US 6,213,237), Hinton (PG Pub. 2005/0035583), Pham (US 5,401,055), Sutherland (US 5,931,499), Murata et al. (PG Pub. 2005/0167961), Horn (US 5,378,020), Sakita (US 4,826,194), Denney et al. (US 3,397,898), Stout (US 2,767,995), Ohrmann (US 2,750,204), and Watkins (US 5,904,218)

- Disclose structure similar to that disclosed and claimed by applicant, specifically in reference to the hydraulic system incorporating both gas and fluid

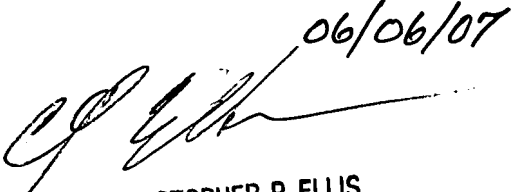
5. **Any inquiry concerning this communication or earlier communications from the examiner should be directed to John R. Olszewski whose telephone number is 571-272-2706.** The examiner can normally be reached on M-Th 5:30AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on 571-272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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06/06/07  
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